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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/222,073 12/29/98 SCHALK

T 5494:39 EXAMINER

TM02/1106

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DALLAS TX 75201

ART UNIT AZAD, A	PAPER
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2641

DATE MAILED: 11/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/222,073

Applicant(s)

SCHALK ET AL.

Examiner

ABUL K. AZAD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,13-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,13-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on August 16, 2001.
2. Claims 1-5, 7, 13-16 and 18 are pending in this action.
3. The applicant's arguments with respect to claims 1-5, 7, 13-16 and 18 have been fully considered but they are not deemed to be persuasive. For the examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7, 13-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg (US 6,122,612) in view of Brown et al. (US 6,208,965) newly cited.

As per claim 1, Goldberg teaches, "a method of recognizing a spoken digit string," comprising:

"(a) receiving the spoken digit string" (col. 2, lines 45-65);

"(b) analyzing the spoken digit string to generate a list of hypothesized digit strings arranged in ranked order based on a likelihood of matching the spoken digit string" (col. 5, lines 4-18);

"(c) determining whether individual hypothesized strings of said list satisfy a given constraint, using a given knowledge based recognition strategy" (col. 5, lines 4-18);

"(d) selecting the first string in the list satisfying the constraint as the recognized string" (col. 5, lines 4-18);

"if none of the hypothesized digit strings satisfy the constrain, (e) prompting entry of the input identifier again" (col. 6, lines 6-11).

Goldberg does not explicitly teach entering a second spoken digit string and comparing the first and second list. However, Brown teaches prompting the user to provide the input identifier again, but this time according to a second form that is different from the first form (Abstract) and comparing the first and second list to recognize the string (col. 9 line 52 to col. 10, line 22). It would have been obvious to one of ordinary skill in the art at the time of the invention to enter a second spoken digit string so that customer dissatisfaction is minimized and a high degree of accuracy is maintained in finding a match for an input identifier (col. 2, lines 16-23).

It would have been obvious to analyze the second digit string similarly as step b and selecting the recognized string as step d so that one can easily recognize the second digit string.

As per claim 2, Goldberg teaches, "said knowledge based recognition strategy comprises a database matching scheme" (col. 5, lines 4-18).

As per claim 3, Goldberg teaches, "wherein step (c) comprises searching a database of valid data strings to determine whether any of the hypothesized digit strings match one of the valid digit strings" (col. 5, lines 4-18).

As per claim 4, Goldberg teaches, "wherein the knowledge based recognition strategy is a checksum scheme" (col. 5, lines 4-18).

As per claim 5, Goldberg teaches, "wherein the spoken digit string includes a checksum digit, and wherein step (c) comprises calculating a checksum of the hypothesized digit strings and determining whether the checksum matches the value of the checksum digit" (col. 5, lines 19-35).

As per claim 7, Goldberg does not explicitly teach, "wherein the checksum scheme utilizes a Luhan Checksum algorithm." It would have been obvious to one of ordinary skill in the art at the time of the invention to use the checksum scheme of a Luhan Checksum algorithm because the choice of the Checksum algorithm is routine experimentation and optimization in the absence of criticality.

As per claim 13, Goldberg teaches, "wherein the knowledge based recognition strategy is a digit positional strategy and the constraining is a given digit position" (col. 5, lines 36-59).

As per claim 14, Goldberg teaches, "wherein the knowledge based recognition strategy is a digit string length strategy and the constraint is a given digit string length" (col. 5, lines 36-59).

As per claims 15 and 16, Brown teaches, (h) and (l) (col. 3, lines 6-36), have similar limitations as claim 1, so that they are rejected for the same reasons.

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As per claim 18, Brown teaches to prompt entry of a spoken digit string prior to step (a) (Fig. 3, element 300).

Response to Arguments

6. The applicant argues: "the addition of Brown does not cure the infirmities of Goldberg, Brown may be deemed to teach re-entering the first identifier, . . . but this is not seen to teach or suggest the comparison as recited in Claim 1."

In response to the applicant's arguments the examiner points out that claim language is interpreted based on the specification. In the specification Page 16, the applicant mentioned that a user is prompted to repeat the string, whereas the claim language is the user is prompted to enter a second digit string. So the claim language is interpreted as entering the input identifier again in a second form because nowhere in the specification is it disclosed to enter a second digit string. The examiner further notes that the comparison step is taught by Bowen at col. 9, line 52 to col. 10, line 22.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is to minimize customer dissatisfaction and to maintain a high degree of accuracy in finding a match for an input identifier (col. 2, lines 16-23).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-**

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3838.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **William Korzuch**, can be reached at **(703) 305-6137**.

Any response to this action should be mailed to:

Commissioner for Patents

Washington, D.C. 20231

Or faxed to:

(703) 872-9314

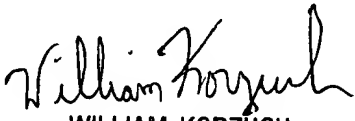
(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is **(703) 305-4700**.

Abul K. Azad

November 5, 2001


WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600